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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,857	02/09/2001	Annie Audibert	612.39487X00	8221

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EXAMINER

SZEKELY, PETER A

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 04/03/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-6

# Office Action Summary

Application No.

09/779,857

Applicant(s)

Audibert et al.

Examiner

Szekely

Group Art Unit

1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 2/25/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-7 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-7 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restriction*

1. The restriction requirement imposed in Paper #4 is withdrawn by the examiner.

### *Specification*

2. The disclosure is objected to because of the following informalities: **Hb1** cannot be an acrylate (Hy)/butyl acrylate (Hb) copolymer, where R5 is H and Z1 is COOH since the carboxyl group signifies an acid, not an ester or a salt. See page 7, line 1, of the instant specification..

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 7 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Audibert et al. 5,597,783 or Argillier et al. 5,637,556.

5. Both references disclose applicants' polymers, both in the specifications and in the claims. Applicants' claims are not novel.

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6. Claims 1-7 are rejected under 35 U.S.C. 102(b or e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lynn 4,525,500, Koga et al. 4,662,942, Yamaguchi et al. 4,888,059, Yamato et al. 5, 707,445, Bowe 6,235,814 or Oswald et al. 6,277,900 in view of Audibert et al. 5,597,783 or Argillier et al. 5,637,556.

7. Lynn teach cement and an aqueous polymer dispersion in claim 1, a copolymer of an alkyl acrylate and acrylic acid in claim 4, and sand in column 3, lines 35-56. Koga et al. recite cement and a sulfonated styrene-maleic acid copolymer in the Abstract, water with fine and coarse aggregate in the Examples. Yamaguchi et al. divulge acrylic acid or its salt copolymerized with an acrylic ester in claim 1, water in claim 10, cement with fine and coarse aggregates in Tables 2 and 4. Yamato et al. reveal a polyalkylene glycol copolymer in the Abstract, cement and water in claim 6, sand and gravel in Table 1. Bowe displays masonry, acrylic acid or its salt copolymerized with an acrylic ester, water and fillers in claim 5, concrete in claim 6. Oswald et al. present applicants' copolymer in claim 1, cement and water in claim 7, silicates in claim 8 and clay and barytes in claim 9. The secondary references have been discussed already. Applicants' claims are not novel. In the alternative, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to use the polymers of the secondary references in the compositions of the primary references, in order to advantage of their low filtration rates.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on Tuesday through Friday from 7:00 a.m. to 5:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718 or (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'Peter Szekely', with a stylized, cursive script.

Peter Szekely

Primary Examiner

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